TOWN OF PALM BEACH

Office of The Town Clerk

SPECIAL TOWN COUNCIL MEETING
2006-2007 ZONING HEARING
THURSDAY, JANUARY 11, 2007 @ 9:30 A.M.

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting, was called to order on Thursday, January 11, 2007, at 9:30 a.m., in the Town Council Chambers. On roll call, the following elected officials were found to be present:

Mayor Jack McDonald
President Denis P. Coleman
President Pro Tem Richard M. Kleid
Council Member William J. Brooks
Council Member Susan Markin
Council Member Allen S. Wyett was not in attendance.

Others present for all or a portion of the meeting were:

Town Attorney John Randolph
Director of Planning, Building & Zoning Veronica Close
Zoning Administrator Paul Castro

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by President Coleman.

III. APPROVAL OF AGENDA

The Agenda was approved as printed.

IV. PROOF OF PUBLICATION

Proof of publication was acknowledged by Zoning Administrator Castro.

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RECYCLED PAPER

V. PROCEDURES FOR COMMENTS BY GENERAL PUBLIC

Public Comment would be taken after the staff presentation.

VI. 2006-2007 ZONING SEASON STAFF REPORT PHASE I AND THE TOWN PLANNING AND ZONING COMMISSION'S RECORD AND REPORT

Zoning Administrator Castro advised that there were only three zoning study items to consider today, and they would be discussed in the following fashion:

1. Study Item No. 3. Study a provision to allow offices on the first floor of the C-TS zoning district.

2. Study Item No. 2. Study allowing wireless telecommunication antennas in the Town's residential districts.

3. Study Item No. 1. Study the point of measurement for height, overall height and cubic content (where applicable) on lots along the Atlantic Ocean and Lake Worth and lots below the minimum flood elevation.

Study Item No. 3: Study a provision to allow offices on the first floor of the C-TS zoning district.

Zoning Administrator Castro advised that last year, the Town Council had adopted, at staff's recommendation, a proposal that eliminated office uses on the first floor, both in C-TS districts and the Worth Avenue District. Subsequent to that approval, several applicants came forward with requests to put offices on the first floor – one on Peruvian and one on Bradley Place. At that point in time, the Town Council did grant relief to those two applicants, because it was determined at that time that those areas were really predominantly office uses on the first floor, and the buildings were designed and built as office buildings originally when they were built. Staff was now coming forward with a proposal to modify the language to allow offices only in the C-TS district, not the Worth Avenue district (which was predominantly retail on the first floor). The proposal was to allow offices only on the first floor, which would be professional services and business services, securities and brokerage, trust companies, provided that at least fifty percent (50%) of the office uses on all of the floors of that building were office uses, and more than 50% existing office uses on the first floor within 300 feet of the proposed office use in the same zoning district.

Council Member Brooks moved approval of Study Item No. 3, and the recommendation of the Planning and Zoning Commission to revise Division 8. C-TS Town-Serving Commercial District, Section 134-1109 as follows:

Sec. 134-1109 Special exception uses.

(a) The special exception use require a site plan and review as provided in article III of this chapter. The special exception use in the C-TS town-serving commercial district are as follows:

18) Offices (excluding executive office suites), professional services, business services and securities or financial brokerage and trust companies on the first floor provided that there is at least 50% office uses on all floors of the building in which the office use is proposed and more than 50% existing office uses on the first floor within 300 feet of the proposed office use in the same zoning district.

The motion was seconded by President Pro Tem Kleid, and carried unanimously 4/0 on roll call, as Council Member Wyett was not present at the meeting.

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Study Item No. 2: Study allowing wireless telecommunication antennas in the Town's residential zoning districts.

Zoning Administrator Castro advised that some modifications had been made to the recommendations approved by the Planning and Zoning Commission. He provided a one-page handout clarifying the language. He noted that stealth antennas were allowed in the Town on all Town-owned property, regardless of the zoning district. Staff proposed that antennas shall be a permitted use in all of the Town's commercial districts (R-D(1), R-D(2) and PUD-A zoning district, provided approval is granted by the Architectural Commission and Landmark Preservation Commission, whichever is pertinent. He explained that the reason for that was that the special exception process was a fairly lengthy process, and cellular providers would be provided a more expedient way of placing antennas in Town areas.

Council Member Brooks moved approval of Study Item No. 2, and the recommendation of the Planning and Zoning Commission to revise Division 12. Telecommunication Towers and Antennas as follows:

Sec. 134-2029. Permitted of special exception use.
~~Antennas and t~~Towers shall be either a permitted use on t Town owned property or a specail exception use in the town's commercial zoning districts, provided approval is granted by the Architgectural Commission and Landmark commission, whichever is pertinent.

Antennas shall be a ~~special exception use~~ permitted use on all Town owned property and in all the Town's commercial, R-D(1), R-D(2) and PUD-A zoning districts, provided approval is granted by the Architectural Commission and Landmark Commission, whichever is pertinent. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

Sec. 134-2061. Eliminate the reference to antennas.

Sec. 134-2107. Criteria for review and approval of application.

Modify by eliminating all references to antennas.

Sec. 124-2062. Information required.

Modify by eliminating all references to antennas.

Sec. 134-2163. Factors considering granting special exception approval.

Modify by eliminating all references to antennas.

The motion was seconded by President Pro Tem Kleid, and carried 4/0 on roll call, as Council Member Wyett was not present at the meeting.

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Study Item No. 1: Study the point of measurement for height, overall height and cubic content (where applicable) on lots along the Atlantic Ocean and Lake Worth and lots below the minimum floor elevations.

Zoning Administrator Castro explained that there were several areas in Town, specifically in the R-B district, where there were homes below the minimal federal floor elevation, and as such could not get any relief from the Town as it related to additions or major renovations. Staff proposed that homes could be raised to meet the minimum flood elevation within the required setbacks, in order to make modifications or renovations to the home, provided that any additions placed on the

house would meet all code requirements existing today.

Council Member Brooks moved approval of the recommendation of the Zoning Commission regarding that portion of Study Item No. 1 - *Sec. 134-419 - Enlargement, extension, reconstruction or alteration* - dealing with changing the regulations for construction on the lake. The motion was seconded by Council Member Markin, and carried 4/0 on roll call, as Council Member Wyett was absent from the meeting.

Zoning Administrator Castro advised that the next item was the point of measurement on the lake. He explained that both the ocean and lake item were deferred to the December 14, 2006 Planning and Zoning Commission meeting, since staff had been directed to contact attorneys, architects, and all other interested parties to have them come to hear the staff proposal on the issues. Several architects and attorneys had appeared at the Planning and Zoning Commission meeting of December 14, 2006, meeting to hear the staff presentation and to provide comments.

Mr. Castro referred to an architectural model to indicate the staff proposals to provide flexibility for property owners on the lake. He explained that the current code required that in a "through" lot the point of measurement for building new construction the front half of the lot point of measurement was the elevation of the crown of the street; the back half of lot point of measurement was the Lake Trail. In many instances, on North Lake Way, the street was much higher than the Lake Trail. In some areas there was a substantial change in the grade from the street to Lake Trail.

Staff proposed that the point of measurement for homes on North Lake Trail be the crown of the street on North Lake Way

President Pro Tem Kleid moved approval of the recommendation of the Planning and Zoning Commission regarding that portion of Study Item No. 1 - *Sec. 134-2 - Definitions and rules of construction*, relative to point of measurement for lake homes.

Discussion then took place. Mr. Royall Victor observed that he did not know how the variances were approved for the two houses on the west side of North Lake Way, immediately opposite the Phipps Estates. He commented that he was hopeful that such variances would never be approved again, and that the staff recommendations would eliminate that.

Mr. Castro commented that the current proposal would allow that the natural grade from the midpoint of the lot to also be the point of measurement. The intent of the staff recommendation was to allow applicants to go with the natural grade of the midpoint of the lot, or the crown of the road, whichever was higher.

Council Member Markin commented that people were putting more and more pavement on their lots, and less green space, and that drainage issues needed to be addressed in those cases.

Mr. Castro noted that, several years ago, the Town Council had adopted a regulation that increased the landscaped open space in the R-B district to 45%; in addition half of that landscaped area had to be around the perimeter of the property. There was also a provision adopted to provide for the first two inches of storm water on the property. The drainage systems had to be certified by a registered engineer every five years.

The motion made by President Pro Tem Kleid was seconded by Council Member Markin, and carried 4/0 on roll call, as Council Member Wyett was not present at the meeting.

Zoning Administrator Castro advised that the last part of the proposals for Study Item No. 1 was regarding the point of measurement on lots east of the Florida Coastal Construction Control line. That proposal was recommended for a deferral by the Planning and Zoning Commission, however, staff was recommending that the staff proposal be adopted in the interim, and then re-study the item to provide even more guidance as to point of measurement on the ocean.

Council Member Markin moved approval of the staff recommendation, regarding *Sec. 134-2 - Definitions and rules of construction,* regarding the point of measurement for oceanfront lots, so that there was consistency with state requirements. President Pro Tem Kleid seconded the motion. On roll call the motion carried 4/0, as Council Member Wyett was not present at the meeting.

Zoning Administrator Castro concluded his portion of the presentation.

VII. REVIEW OF THE PROPOSED ROYAL POINCIANA AREA PLANNING STUDY SCHEDULE AND SCOPE OF WORK (PRESENTATION)

VII. COMMENTS OF MAYOR AND TOWN COUNCIL AND DIRECTOR OF PLANNING, ZONING AND BUILDING DEPARTMENT

[Discussion of the above two items is combined, as follows.]

In response to discussion, Director of Planning, Zoning & Building Close advised that generator operation had been limited to 75% capacity only for purposes of zoning in progress, however, staff would be looking at 100% as well.

Director of Planning, Zoning & Building Close advised that a presentation had been made to the Planning and Zoning Commission on the proposed Royal Poinciana area planning study, and she provided an overview of the study to give the Town Council an idea of what was being considered. She reviewed the schedule for the completion of the Royal Poinciana Way study.

In response to President Coleman's concerns regarding the inconsistency of studying private property, such as Royal Poinciana Plaza, Ms. Close replied that both public and private property within that district would be studied. She stated that she envisioned a form-based code coming out of the study, rather than a traditional code. Rather than entertain re-development applications on a piece by piece basis, the concept was to look at the entire area, to see how the area should look, to determine the vision of the gateway to the Town.

Town Attorney Randolph advised that staff had been trying to direct people away from looking at a specific piece of property, and that people had been advised that this was a general study for the gateway to the Town.

President Pro Tem Kleid commented that a scale and a scope could be set, and then the input of private property owners in the area would be gathered. Hopefully, it would result in an overall project that would satisfy everyone.

President Pro Tem Kleid then addressed the matter of the consultants who had been hired for planning purposes, and that he had suggested that outside expertise be brought in for certain projects. He noted that he was disappointed that the outside expertise had not been discussed at the Planning and Zoning Commission meetings, and that he was hopeful that world class, internationally famous architects and consultants would be brought in to look at this project.

President Coleman questioned the individual experience of the consultants hired by the Town. Ms. Close responded that the consultants had been interviewed, and each of the individuals had included participation in these type of studies on their resumes. She noted that the Town Council had been apprised of the Planning and Zoning Commission recommendations concerning the consultants in response to staff recommendations to use local firms.

President Coleman requested information regarding the specific experience of the individuals hired. Ms. Close advised that she would respond to that via memorandum.

Council Member Markin commented that she had never heard any resident complaining that the Royal Poinciana area did not represent the gateway to the community, and expressed concern that the study would result in the concerns of business owners in the area. The study then may be skewed relative to residents, because the residents, in general, did not feel that there was a problem in the

Royal Poinciana area. She suggested that the codes in place were keeping those areas from being over-developed by property owners.

Council Member Brooks commented that it was the charge of elected officials to make the evolution of Palm Beach gradual, beneficial to the citizens, and beneficial to the business owners. He applauded the fact that the area would be studied. He noted that it was the obligation of the Town Council to be proactive, rather than reactive.

President Pro Tem Kleid noted that the experience of the planning consultants had been reviewed by the Planning and Zoning Commission, and there had been information given as to what studies the consultants had completed.

President Coleman stated that he merely wanted to verify that the consultants hired had a great degree of confidence and experience. He also noted that he did not necessarily view the business interests and the residents as adversarial.

Mayor McDonald commented that staff was probably quite confused at this point, since the hiring of the planning consultants was approved by the Town Council. He agreed that a world renown consultant was probably needed, however, the dollars to do it must be appropriated.

Council Member Markin clarified that she had supported planning and going ahead with the study on the basis that an overall perspective would be used. Her point in speaking about the objectives of business owners versus residents was not to put them in different categories, but was to point out the fact that the study may result in different perspectives that would need to be weighed. She noted that she had approved the study, with the rest of the Town Council, because she believed in planning, and believed that planning was necessary even where private property was involved, because there was an obligation to ensure that zoning reflected the input of the public.

Mayor McDonald noted that the bridge was driving part of this, and that the Town Council would be receiving pressure from the business community for expansion in the near future.

Ms. Close suggested that the existing consultants could conduct the short process, separating the study by a land use oriented gateway study, with a world renown person being brought in to suggest what could be architecturally achieved in the area. Another way would be to bring in a sub-consultant, which would not be a lesser position than the other consultants, but it would be a technical mechanism to bring them in under a purchasing contract. The local consultants would then do the brunt of the base work.

Ms. Close advised that she would provide a memorandum clarifying the qualifications of the individuals hired as consultants.

President Pro Tem Kleid commented that bringing in a well known individual at the end of the project, to make a final review, would be less costly. He noted that he believed there were organizations in the Town that would may help defray most, if not all, of the costs of hiring a well known individual at the end of the project.

IX. COMMUNICATION FROM CITIZENS

There were none at this time.

X. OTHER ITEMS

There were none.

XI. ADJOURNMENT

There being no further business, the Special Town Council Meeting of January 11, 2007, was adjourned at 10:50 a.m.

APPROVED:

Denis P. Coleman
Town Council President

ATTEST:

Susan A. Eichhorn
Town Clerk